Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers'	)	CC Docket No. 94-129
Long Distance Carriers	)	

OPPOSITION OF SPRINT

Sprint Communications Co. hereby responds to the petitions for reconsideration of the Commission's June 14 Report and Order (FCC 95-225) in the above-captioned proceeding.

Six parties filed petitions for reconsideration: Allnet, AT&T, Frontier, MCI, the National Association of Attorneys General Telecommunications Subcommittee ("NAAG"), and Sprint. Sprint opposes only the NAAG petition. Before turning to that petition, Sprint would like to comment briefly on the petitions of other parties.

AT&T and MCI joined Sprint in seeking reconsideration of the requirement to apply the verification procedures set forth in Section 64.1100 of the Rules to PIC changes resulting from customer-initiated calls. Sprint submits that the petitions present a compelling record for reversing this determination. They demonstrate that customer-initiated calls are far different from carrier-initiated calls, and that customer-initiated PIC changes do not constitute a significant source

of "slamming" complaints. Thus, imposition of a verification requirement for such sales would be an expensive solution to a non-existent problem.

Allnet seeks clarification of the language in Section 64.1150(e)(4) to better reflect the choices that are available to consumers in states that have allowed 1+ presubscription for intraLATA traffic. Sprint supports this clarification. Frontier argues that the rules regarding LOA format should not apply to customers that have executed formal written contracts. Sprint agrees. Such contracts are typically entered into with medium-sized and large businesses and address their communications needs in a far more detailed fashion than order forms for residential customers or some smaller businesses. Unauthorized PIC changes are not a problem with this segment of the market, and the LOA language and format, suitable though it may be for residential and small business subscribers, is unnecessary, awkward, and out of place in a formal contract.

As indicated above, the only petition to which Sprint objects is that of NAAG. However, NAAG filed its petition for reconsideration out of time. Section 405 of the Act provides, in relevant part:

> A petition for reconsideration must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of.

Section 1.4(b)(1) of the Rules, in turn, defines the provision of "public notice" in rulemaking proceedings as follows:

> For documents in notice and comment rule making proceedings, including summaries thereof, the date of publication in the Federal Register.

In this case, the Report and Order was published in the Federal Register on July 12, 1995 (60 F.R. 35846). Accordingly, petitions for reconsideration of the Report and Order were due thirty days later -- i.e., on or before August 11, 1995. While NAAG's Petition is dated August 11, 1995, from all appearances it was not filed with the Commission until August 14. The Public Notice listing petitions for reconsideration of the Report and Order (Report No. 2093, August 18, 1995) shows NAAG's petition as having been filed on August 14, and Sprint's copy of the petition shows an April 14 date stamp from the FCC's Mail Room.

It is well established that the 30 day time limit for filing petitions for reconsideration is jurisdictional and cannot be extended or waived by the Commission, absent highly unusual conditions (i.e., failure on the part of the Commission to give the parties the notice of its action required by the Administrative Procedure Act and the Commission's own rules) that are not present here.[1]

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[1] See, Virgin Islands Telephone Corporation, 7 FCC Rcd 4238 (1992); Richardson Independent School District, 5 FCC Rcd 3135 (1990); Reuters Ltd. v. FCC, 781 F.2d 946, 951-52 (D.C. Cir. 1986); and Gardner v. FCC, 530 F.2d 1086 (D.C. Cir. 1976).

Furthermore, the period for Commission reconsideration sua sponte has also lapsed. See Section 1.108 of the Rules. Thus, the issues raised by NAAG not raised in other petitions for reconsideration cannot be considered.

NAAG could, of course, file a new petition for rulemaking. However, further rulemaking action, to the ends suggested by NAAG, would not be warranted.

For example, NAAG's proposal to prohibit a carrier, accused of an unauthorized PIC change but unable to produce a signed LOA, from charging for calls made by the allegedly "slammed" customer, could easily lead to a new form of toll fraud by unscrupulous consumers who could change carriers in ways that do not require a signed LOA, then disavow their PIC change in order to receive telephone service free of charge. Indeed, since the Commission gives consumers up to a year to dispute a PIC change,[2] they could receive free service from a carrier for an entire year before even having to give notice that they believe they have been "slammed." NAAG argues that there is no evidence that this would occur. The reason there is no evidence of such fraud today is that the Commission's current policies, which allow carriers to charge for services provided to consumers who claim to have been "slammed," preclude this type of toll fraud. Given the ingenuity

[2] Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 3215, 3217 (1993).

displayed by practitioners of toll fraud, it would not take them long to discover this new opportunity, if it were created by a change in Commission policy.

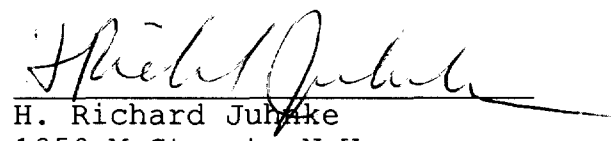
NAAG also argues that the Commission should not allow an LOA to be on the same sheet of paper as other promotional inducements even if it is separated by perforations. In Sprint's view, so long as the LOA itself conforms to the Commission's rules, there is no reason why the LOA should not be allowed to be detachable from other material sent to the consumer.

Finally, NAAG's suggestion that Section 64.1100(d) should be revised in light of the Commission's determination to prohibit negative option LOAs reflects a misunderstanding of the purpose of that rule. The postcard referred to in Section 64.1100(d) is part of a mailing that is sent by a carrier to confirm a sale that has already been made. Thus, it is not a negative option LOA but simply a means of allowing the customer to deny, by mailing back the postcard, that he or she had ever intended to switch carriers in the first place. Given the fact that most consumers neglect to sign and return their LOAs, to require an affirmative response by consumers where Section 64.1100(d) verification procedures are employed would result in lessened competition and confused consumers who do not understand why the change of carriers they intended has not been effectuated.

Accordingly, Sprint urges the Commission to dismiss NAAG's petition as untimely, to grant the requests of AT&T, MCI and Sprint to eliminate the verification requirement for PIC changes resulting from customer-initiated calls, and to grant the petitions of Allnet and Frontier.

Respectfully submitted,

SPRINT COMMUNICATIONS CO.



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September 8, 1995

CERTIFICATE OF SERVICE

I, Joan A. Hesler, hereby certify that on this 8th day of September, 1995, a true copy of the foregoing **"OPPOSITION OF SPRINT"** was Hand Delivered to each of the parties listed below.

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